

REMARKS

Applicants respectfully request reconsideration of the non-final Office Action of August 19, 2008 and entry of the claim amendments for placing the case in condition for allowance.

Upon entry of this amendment, claims 3-14 and 16-36 will be pending in this application with claims 3-14, 16-23 and 25-31 have been rejected and claims 21 and 32 are objected as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations the base claim and any intervening claims in the Office Action.

To summarize the claim changes made in this Amendment, claim 3 has been amended to present it in a more streamlined fashion. Also, claims 4, 5, 8, 10 and 19 have been amended solely to clear up some grammatical inconsistencies and thus are submitted not to raise new issues.

New dependent claims 33-36 have been added and are supported based on, for example, page 9, line 28 to page 11, line 14.

As the claim amendments are considered to find full support in the original disclosure, no new matter is considered presented.

Claim Rejections under 35 U.S.C. §103

Claims 3-9 and 12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh (US 5,243,663) in view of Bechtel et al. (US 2003/0103141).

Applicants respectfully submit that cited documents fail to disclose a determination section for determining whether there is a fail occurring on the image taken by the camera wherein the determination section determines the fail based on a parameter obtained by normalizing the luminance-distribution characteristic value by a shutter speed for the camera device, the feature of independent claim 3.

Kudoh discloses a parking garage vehicle parking spot occupying detection system wherein a television camera mounted on the garage structure with a view of a number of parking spots is used to determine whether a vehicle is present or not in a parking spot. This is achieved by reviewing for a variance of pixels in a vehicle judging region. Kudoh is directed at avoiding

non-detection of a vehicle in situations where vehicle luminance data is close to that of the road surface luminance data by implementing in the review process “a luminance level at which the variance of luminance of the pixels in the vehicle existence judging region calculated by the variance calculator takes a maximum value”.

The Examiner recited on the basis of column 4, lines 65-68 of Kudoh that Kudoh discloses a determination section for determining whether there is a fail occurring on the monitoring system based on the luminance data. The indicated portion of Kudoh describes as follows:

*“As is apparent from the description of the embodiment, the present invention produces the following effects:
(1) The variance of luminance of pixels within a vehicle existence judging region set in a parking space is calculated, and a luminance level at which the variation takes the maximum value is observed, thereby making it possible to detect a vehicle which has not been detected only by the binary-conversion processing due to a failure in revealing the characteristic of the vehicle.”*

Here, the underlined portion explains an effect of Kudoh's invention that Kudoh's invention makes it possible to detect a vehicle which has not been detected by the conventional vehicle detecting apparatus (the binary-conversion processing). The reasons why the binary-conversion processing could not detect a vehicle is described in column 2, lines 1-11 of Kudoh as follows:

“Since such a conventional vehicle detecting apparatus sets two threshold values for binary conversion with a range from $b+\sqrt{a}$ to $b-\sqrt{a}$, a pixel having luminance within this range of the threshold values for binary conversion will not be extracted as characteristic. Stated another way, a vehicle, even if being parked in a parking space, will not be detected by the conventional vehicle detecting apparatus if the number of pixels having luminance within the two

threshold values for binary conversion is larger than the number of pixels having luminance out of the two threshold values. (column 2, lines 1-11 of Kudoh)”

Accordingly, “a failure in revealing the characteristic of the vehicle” indicated by the Examiner is a kind of problem which occurred in the conventional apparatus and is resolved by Kudoh’s invention.

Further, there is no disclosure or suggestion about determining whether there is a fail occurring on the image taken by the camera in both the conventional apparatus described in Kudoh and Kudoh’s vehicle detecting apparatus. Both apparatus merely judge whether a vehicle is parked in a parking space.

Thus, it is respectfully submitted that Kudoh fails to disclose or suggest a determination section for determining whether there is a fail occurring on the image taken by the camera.

In the Office Action it is set forth that Bechtel disclose “normalizing the luminance characteristic values by a shutter speed” (Bechtel: paragraphs 0053; 0056; wherein the shutter speed is the exposure time) (see page 3, lines 4-6 of Office Action).

Applicants respectfully submit that the indicated portion above of Bechtel does not disclose or suggest that the determination section determines the fail based on a parameter obtained by normalizing the luminance-distribution characteristic value by a shutter speed for the camera device.

There is no disclosure or suggestion about “the shutter speed” and “the exposure time” in Bechtel. That is, though the Examiner recited that “(Bechtel: paragraphs 0053; 0056; the shutter speed is the exposure time)”. The only sentence including the word “exposure” is as follows:

“[0056] Camera sensitivity is controlled over a wide range of brightness primarily by changing the integration time and method in order to reasonably center the image exposure in the electrical readout range of the pixel sensors and associated electronics.”

Thus, it is respectfully submitted that Bechtel fails to disclose or suggest about the determination section determines the fail based on a parameter obtained by normalizing the luminance-distribution characteristic value by a shutter speed for the camera device.

Further, the indication of Official Notice being taken relative to claims 6-8 is respectfully traversed. For example, there is respectfully submitted not to be a correlation between the numbered luminance edges and the range of coverage, particularly relative to the applied combination based on Kudoh's parked vehicle determination.

Accordingly, Applicants respectfully submit that a prima facie case of obviousness has not been established based on Kudoh in view of Bechtel et al.

Claims 10, 13-14, 19-22, and 30-31 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh (US 5,243,663) in view of Harada et al. (US 6,636,257).

Claims 11 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh in view of Harada, in further view of Kogure et al. (09/902,576), in further view of Hibbard et al. (US 6,019,911).

Claims 16-18, 23, 25, and 27-29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh in view of Harada, in further view of Kogure et al. (09/902,576), in further view of Shimoura et al. (US 6,285,393).

Claims 26 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh in view of Harada, in further view of Kogure et al. (09/902,576), in further view of Khattak (US 4,899,296).

The remarks presented in the June 19, 2007 Amendment are incorporated by reference. The incorporated remarks include those earlier presented in rebuttal of the obviousness rejections to Claims 10, 19-22 and 30.

The Examiner recited in the Office Action of August 19, 2008 on page 2 as follows:

"Applicant's arguments with respect to the rejection(s) of claim(s) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made as set forth below."

It is respectfully submitted that the rejections with respect to Claims 10, 11, 16, 18-23, 25, 26, 29-30, which were raised in the Office Action of March 23, 2007, have been withdrawn in the Office Action of August 19, 2008 and the rejection(s) made in the Office Action of August 19, 2008 should be raised based on new ground(s). However, the rejections to Claims 10, 11, 13-14, 16-23, 25-31 made in the Office Action of August 19, 2008 are the same as in the Office Action of March 23, 2007. That is, the present Office Action fails to indicate what the new ground(s) of rejection(s) are in the rejection of, for example, claims 10, 11, 13-14, 16-23, 25-31.

Thus, Applicants incorporate the remarks presented in the June 19, 2007 Amendment by reference in order to argue the rejections to Claims 10, 11, 13-14, 16-23, 25-31 in the Office Action of August 19, 2008. This includes, for example, the question as to how one of ordinary skill could ever have found it obvious to modify the base reference of Kudoh, directed at parking garage detection system, to turn that system into a system with a vehicle state alteration device that alters a vehicle condition and further implements a fail safe mode relative to that vehicle state alteration device when a monitoring system failure is determined (e.g., claim 13).

Accordingly, Applicants respectfully submit that independent claims 3, 10 and 13 and their dependent claims are patentably distinguished over the cited documents.

In view of the above remarks, Applicants submit that all rejections raised in the Office Action are overcome such that the application is in condition for allowance.


Applicant looks forward to confirmation of the same at the Examiner's earliest convenience.

Applicants respectfully submit that the application as a whole stands in condition for allowance.

U.S. Patent Application Serial No. 09/902,576
Attorney Docket No. 032405R084

Also, if any fees are due in connection with the filing of the amendment, such as fees under 37 C.F.R. §§1.16 of 1.17, please charge the fees to Deposit Account 02-4300; Order No. 032405R084.

Respectfully submitted,
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